

DONALD W. FITZGERALD, State Bar No. 095348
THOMAS A WILLOUGHBY, State Bar No. 137597
JENNIFER E. NIEMANN, State Bar No. 142151
FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP
400 Capitol Mall, Suite 1450
Sacramento, CA 95814
Telephone: (916) 329-7400
Facsimile: (916) 329-7435
dfitzgerald@ffwplaw.com
twilloughby@ffwplaw.com
jniemann@ffwplaw.com

Proposed Attorneys for Zacky Farms, LLC

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

In re:

ZACKY FARMS, LLC, a
California limited liability
company,

Debtor-In-Possession.

CASE NO. 12-37961-B-11

DCN: FWP-8

Date: October 11, 2012
Time: 1:30 p.m.
Courtroom: 32
501 I Street, 6th Floor
Sacramento, CA

**DEBTOR'S EMERGENCY MOTION TO EXTEND TIME TO FILE SCHEDULES
AND STATEMENT OF FINANCIAL AFFAIRS**

Zacky Farms, LLC, a California limited liability company, debtor in possession in the above-titled bankruptcy case ("Zacky Farms" or the "Debtor"), hereby files this Emergency Motion to Extend Time to File Schedules and Statement of Financial Affairs (the "Motion"). In support of this Motion, the Debtor respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this case and this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding within the meaning of 28 U.S.C. §157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1490.

2. The statutory predicates for the relief requested herein are section 521 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et. seq.* (the "Bankruptcy Code"), and Rule 1007 of

¹ the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

BACKGROUND

3 3. On October 8, 2012, the Debtor filed a voluntary petition with the Court under
4 chapter 11 of the Bankruptcy Code.

5 4. The factual background relating to the Debtor's commencement of this case is set
6 forth in detail in the Declaration of Keith F. Cooper in Support of First Day Motions and
7 Applications filed on October 9, 2012 (Dkt. No. 5) ("Cooper Decl.") and incorporated herein by
8 reference.

9 5. The Debtor has continued in possession of its property and has continued to
10 operate and manage its business as debtor-in-possession pursuant to section 1107(a) and 1108 of
11 the Bankruptcy Code.

12 6. As of the date of filing, no official committee of unsecured creditors has been
13 appointed in this case, and no request has been made for the appointment of a trustee or
14 examiner.

RELIEF REQUESTED

16 7. By this Motion, the Debtor requests the entry of an order, pursuant to Bankruptcy
17 Code section 521 and Bankruptcy Rule 1007(c), extending the time to file its schedules and
18 statement of financial affairs (collectively, the “Schedules”) until December 15, 2012.

19 8. To prepare the Schedules, the Debtor must gather information from books,
20 records and documents relating to a multitude of transactions. Consequently, collection of the
21 necessary information requires the expenditure of substantial time and effort on the part of the
22 Debtor's limited and already overburdened employees. Given the size of this case, as well as the
23 reality that the time period immediately prior to the Thanksgiving holiday is the busiest time for
24 a turkey processing business, the Debtor submits that the efforts of its employees during the
25 initial stages of these cases are critical and need to be focused on attending to the Debtor's
26 business and maximizing the value of the Debtor's estate. The Debtor's employees will begin
27 working diligently to assemble and collate the necessary information. The Debtor anticipates
28 that it will need a minimum of 54 additional days than that otherwise prescribed by the

1 Bankruptcy Rules in order to prepare and file its Schedules in the appropriate format. Cooper
2 Decl. ¶ 69.

3 9. For these reasons, the Debtor believes that it will be unable to compile all the
4 information necessary for the preparation and filing of the Schedules within fourteen days after
5 the entry of the order for relief, as required by Bankruptcy Rule 1007(c).

BASIS FOR RELIEF

7 10. Bankruptcy Rule 1007(c) permits the extension, for cause, of the time for filing
8 schedules and statements. The Debtor submits that in view of its limited resources and the
9 amount and type of information that must be assembled and compiled, ample cause exists for the
10 requested extension.

11 11. Moreover, the relief requested in this Motion will not prejudice any party-in-
12 interest. As required by Bankruptcy Code section 521(a), and Bankruptcy Rule 1007(a)(1) and
13 (d), the Debtor has, or will have, filed (i) a list setting forth the names and addresses of all of its
14 creditors, and (ii) a list setting forth the names, addresses, and claim amounts of creditors
15 holding to 20 largest unsecured claim.

NOTICE

17 12. Notice of this Motion has been provided to the Office of the United States
18 Trustee for the Eastern District of California; the Debtor's twenty (20) largest unsecured
19 creditors, the Debtor's secured creditors, the attorneys for the Debtor's pre-petition secured
20 lenders; the Internal Revenue Service, the State of California Attorney General, the United
21 States Attorney, the Food and Drug Administration, the Department of Agriculture,
22 Environmental Protection Agency, the Occupational Safety and Health Administration,
23 corresponding state agencies, as well as other governmental agencies, to the extent required by
24 the Bankruptcy Rules and the Local Rules for the United States Bankruptcy Court for the
25 Eastern District of California and those persons who have formally appeared and requested
26 service in this case pursuant to Bankruptcy Rule 2002. In light of the nature of the relief
27 requested, the Debtor submits that no further notice is necessary.

CONCLUSION

WHEREFORE the Debtor respectfully requests that this Court:

1. Enter an order pursuant to Bankruptcy Code section 521 and Bankruptcy Rule 1007(c), extending the time to file its Schedules until December 15, 2012; and
2. Granting the Debtor such other and further relief as is just and proper.

Dated: October 9, 2012

FELDERSTEIN FITZGERALD
WILLOUGHBY & PASCUZZI LLP

By: /s/ Thomas A. Willoughby
Thomas A. Willoughby
Proposed Attorneys for Zacky Farms, LLC,
Debtor and Debtor in Possession